

UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

MICHAEL REGAN

Application No. 10/824,668

Filed: April 14, 2004

For: INSULATED SUPPRESSOR FOR
INDUSTRIAL MAGNETRONS

: Docket No. 0404-04501US

: Art Unit 3742

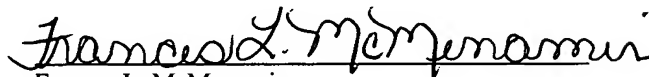
: Confirmation No. 7533

CERTIFICATE OF MAILING (37 C.F.R. §1.8(a))

I hereby certify that this Correspondence is being deposited on August 11, 2005 with the United States Postal Service as first-class mail in an envelope properly addressed to COMMISSIONER OF PATENTS AND TRADEMARKS, Washington, DC 20231.

August 11, 2005


Date of Certificate


Frances L. McMenamin

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

In the event a fee is required and is not enclosed, or the check is improper, or the fee calculation is in error, the Commissioner is authorized to charge any underpayment or credit any overpayment to the account of the undersigned attorneys, Account No. 04-1406. A duplicate copy of this sheet is enclosed.

By



Vincent T. Pace

PTO Registration No. 31,049

REPLY UNDER 37 C.F.R. §1.111

In response to the restriction requirement set forth in the Official Action dated July 12, 2005, Applicant hereby elects to prosecute Claims 1 to 10 (Group I) and Claims 16 to 20 (Group III) as set forth in the Official Action. This election is made with traverse for the following reasons.

In making the restriction requirement, the Examiner explained that invention Groups I, II, and III are related as process of making and product made. The Examiner

then went on to explain that the invention groups can be shown to be patentably distinct if (A) the process as claimed can be used to make a materially different product or (B) the product as claimed can be made by a materially different process. The Examiner then concluded that the process as claimed can be used to make a radio frequency radiation suppressor with or without a metallic connector.

Implicit in the Examiner's conclusion is the misconception that a radio frequency radiation suppressor with a metallic connector is materially different from a radio frequency radiation suppressor without a metallic connector. However, the Examiner did not explain how a radio frequency radiation suppressor without a metallic connector is materially different from a radio frequency radiation suppressor with a metallic connector. Indeed, both types of radio frequency radiation suppressor are classified in the same class and subclass. Therefore, it would appear from the record that there is no material difference recognized by the art between a radio frequency radiation suppressor having a connector and a connectorless radio frequency radiation suppressor.

Set forth in the table below are the texts of Claims 1, 11, and 16 of the present application.

1. A radio frequency radiation suppressor for a magnetron, comprising

11. A method of making a radio frequency radiation suppressor for an industrial magnetron comprising the steps of:

16. A radio frequency radiation suppressor for a magnetron, comprising

a) an inner sleeve member made of an electrical insulating material, and

forming an inner sleeve from an electrically insulating polymer material; and

a) an inner sleeve member made of an electrical insulating polymer material;

b) an outer shell assembled to said inner sleeve member, said outer shell member being made of a material that absorbs radio-frequency radiation.

forming a radio-frequency radiation absorbing outer shell on the inner sleeve.

b) an outer shell assembled to said inner sleeve member, said outer shell member being made of a material that absorbs radio-frequency radiation; and

c) a metallic connector attached to the inner sleeve member for contacting the magnetron.

It is readily apparent that Claims 1, 11, and 16 share the common features of an inner sleeve member made of an electrical insulating material and an outer shell assembled to the inner sleeve member, the outer shell member being made of a material that absorbs radio-frequency radiation. "Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition." MPEP 806.03.

Claims 1 and 16 differ only in scope because Claim 1 encompasses a suppressor that has a metallic connector. Since a radio frequency radiation suppressor according to

Application No. 10/824,668
Docket No. 0404-04501US

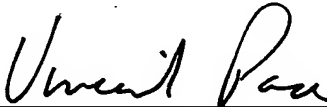
Examiner Daniel L. Robinson
Art Unit 3742

this invention may or may not include a metallic connector, the fact that the method set forth in Claim 11 could be used to make a radio frequency radiation suppressor with or without a metallic connector is irrelevant. There is no substantial evidence of patentable distinctness between the subject matter defined in the independent claims of this application.

The Examiner has failed to raise a *prima facie* case of patentable distinctness between the invention Groups I, II, and III. Therefore, it is believed that the restriction requirement is improper. Accordingly, it is respectfully requested that Claims 16-20 be rejoined in this application.

Respectfully submitted,

DANN, DORFMAN, HERRELL AND SKILLMAN
A Professional Corporation
Attorneys for Applicant(s)

By 

Vincent T. Pace
PTO Registration No. 31,049

Tel.: 215-563-4100
Fax: 215-563-4044
email: vpac@ddhs.com